

The article was alleged to be misbranded in that the statement on the neck band, "Not Over 21% Alcohol By Volume", was misleading and tended to mislead and deceive the purchaser, when applied to a product containing less than that amount of alcohol.

On December 31, 1935, Isador Mahler, Perth Amboy, N. J., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be relabeled under the supervision of this Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

25686. Misbranding of canned peas. U. S. v. 913 Cases of Canned Peas, and other libels. Decrees of condemnation. Product released under bond for relabeling. (F. & D. nos. 36603, 36616, 36708, 36716, 36717, 36770, 36879. Sample nos. 40140-B, 40141-B, 40142-B, 50535-B, 54068-B to 54072-B, incl.)

These cases involved canned peas which contained an excessive proportion of ruptured peas and, in certain lots, excessive packing medium, which were not labeled to indicate that they were substandard.

On November 6 and November 13, 1935, the United States attorney for the Southern District of West Virginia, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 1,304 cases of canned peas at Charleston, W. Va. On December 5, 6, 10, and 26, 1935, libels were filed against 350 cases of canned peas at Philadelphia, Pa., 430 cases of the product at Camden, N. J., 124 cases at Trenton, N. J., and 200 cases at Newark, N. J. The libels alleged that the article had been shipped in interstate commerce between the dates of June 29 and November 27, 1935, in part by the Eastern Shore Canning Co., and in part by Thomas Roberts & Co., from Machipongo, Va., and that it was misbranded in violation of the Food and Drugs Act as amended. Portions of the article were labeled: "Eastern Shore Brand [or "Escco Brand"] Early June Peas * * * Packed by the Eastern Shore Canning Co., Machipongo, Va." The remainder was labeled: "Pride of the Farm Brand Early June Peas * * * Thomas Roberts & Co. Philadelphia, Pa., U. S. A., Distributor."

The libels charged that the article was misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture and in that certain lots also fell below the standard of fill of container so promulgated, since the peas were not immature and certain lots were slack-filled, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On December 10, December 31, 1935, January 13 and February 5, 1936, the Eastern Shore Canning Co. and A. T. Leatherbury, having appeared as claimants for respective portions of the product, judgments of condemnation were entered and it was ordered that the product be released under bond conditioned that it be relabeled under the supervision of this Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

25687. Adulteration and misbranding of honey malt chocolate flavor. U. S. v. 309 Jars of Honey Malt Chocolate Flavor. Default decree of condemnation and destruction. (F. & D. no. 36604. Sample no. 42792-B.)

This product was sold as a chocolate-flavored mixture of honey and malt. Examination showed that it was a mixture of sugar, water, and cocoa, slightly flavored with honey and malt, also that it was short in weight.

On November 6, 1935, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 309 jars of honey malt chocolate flavor at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about June 6, 1935, by the Silver Label Products Co., from Brooklyn, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Honey Malt Chocolate Flavor * * * Silver Label Prod. Co., Bklyn., N. Y., Net Wt. 1 Lb."

The article was alleged to be adulterated in that a mixture of sugar, water, and cocoa, slightly flavored with honey and malt had been substituted for a chocolate-flavored mixture of honey and malt, which the article purported to